



# City of San Antonio Development Services Department **Community Sound Management**

PHASE ONE: LEARNING OF SAN ANTONIO SOUND AND NOISE LANDSCAPE  
**SUMMARY REPORT OF INITIAL FINDINGS**  
MAY 2, 2022



# Introduction

Pursuant to the agreed-upon Scope of Work, Sound Music Cities (SMC) began work on Feb 25, 2022. Activities in Phase One included:

- Review and Analysis of San Antonio noise and sound landscape
- Review existing sound and noise ordinance
- Accompany Code Enforcement responding to calls under the current Pilot Program
- Interviews with residents and neighborhood associations
- Interviews with business owners and operators
- Interviews with Task Force members
- Support, facilitation, and council during Task Force meetings

The Deliverable for Phase One is this Summary Report of Initial Findings which includes possible policy pathways.

SMC conducted three separate visits over the course of the last 45 days, riding along with Code Enforcement exercising the terms of a noise ordinance enforcement pilot program, attending three Noise Ordinance Task Force meetings virtually, and interviewing over 50 residents/business owners/task force members.

**For the purposes of this update, we have grouped our findings into three categories:**

- 1.Noise Ordinance Pilot Program and the associated work with Code Enforcement**
- 2.Noise Ordinance Task Force**
- 3.Interviews with Stakeholders**

We provide a summary and observations for each set of findings which build to inform the next steps and recommendations.

One important point: While the Pilot Program included both business and residential noise complaints, Sound Music Cities was not contracted to provide assistance or make recommendations on enforcement of residential noise complaints, but rather to focus on business noise complaints. Our experience has been that appropriate enforcement and cogent policy bifurcates business sound/noise regulation and residential sound/noise regulation. We recommend a similar course of action for San Antonio.

## Category 1:

# Noise Ordinance Pilot Program

## Summary

Prior to contract execution, the City of San Antonio approved a pilot program authorizing Code Enforcement through the Development Services Division to enforce noise violations — an area that had historically been enforced by San Antonio Police Department. This is not atypical. For many cities, a noise violation is a Class C misdemeanor and enforcement of noise violations fall to either police or code enforcement.

Sound Music Cities accompanied representatives from Development Services Department's Code Enforcement surveying more than a dozen businesses that had either received calls or were identified as locations with potential issues.

## Observations

Of the dozen or so establishments that SMC observed, few hosted live bands — the majority of businesses featured DJs. In some instances, music was the primary source of entertainment, but in most cases, music was secondary, or tertiary use. There appeared to be a significant lack of understanding across business owners/operators we visited regarding:

- Rules regarding sound limits in general, much less a differentiated limit depending on the time of day
- Rules regarding zoning or permitting and what was allowed or prohibited
- Requirements for safe ingress and egress or capacity
- Impact of sound on surrounding neighbors
- Path of sound behavior or travel
- Appropriate sound systems for size and character of venues
- Responsible sound mitigation strategies and materials
- Low-frequency management





## Category 1: Noise Ordinance Pilot Program Continued

In general, the establishments SMC observed tended to operate without regard to industry best practices and were oblivious to the surrounding buildings that may or may not have been zoned for residential use. Sound levels were measured well beyond the allowable limit for a patio, exceeding both 70 dB allowed before 11 pm and 63 dB after 11 pm. We observed sound beyond these levels even when the patio was mostly empty, and patrons would struggle to maintain a normal conversation.

By and large, the operators that SMC witnessed (or received background information about) were much more concerned about either “being in trouble” or attempting to argue about the efficacy of sound measurement in spite of established best practices. This is also not uncommon. For those bad actors who don't comply, a Class C Misdemeanor established as a violation is not much of a deterrent. Some establishments appeared willing to accept a ticket as the cost of doing business knowing that there were no immediate consequences for their failure to comply. In one particularly troubling instance, one operator boldly proclaimed that he was simply going to raise the cost of his beer by a dollar to pay his fine and continue doing business as he sees fit.

In interviews with Code Enforcement, a clear pattern emerged regarding establishments identified as bad actors:

- Established a heavy reliance on patio bars to substantiate crowd size beyond load card or capacity allowances
- Either did not know or did not care about permitting or zoning
- Made substantial modifications to their property without permits or approval (even impacting the right of way in one instance)

Code Enforcement recognizes that bad actors represent a small percentage of the total universe of establishments. There are some “frequent flyers” who consistently ignore or defy regulations, but this mode of operating does not represent most establishments.



## Category 1: Noise Ordinance Pilot Program Continued

From an operational standpoint, the Pilot Program utilized existing human resources — a strategy that is not sustainable. If the City Council decides to recommend Code Enforcement versus San Antonio Police Department handle these violations, there will be a significant budget impact to create a staff (both officers and administrative/operations staff) that can respond to sound and noise violations for the hours of operations like those of the Pilot Program (8p-4a).

Finally, during the Pilot Program we observed an unrealistic expectation of immediate resolution once a noise complaint was filed. The absence of clear cut off times combined with decibel level limits being so proximate is problematic. There would be less need for enforcement with clearer regulation. Until residents, business, and enforcement share a common understanding of what sound level to expect and when, enforcement will remain challenging, and expectations will be missed.

**In many ways, the use of sound — especially outdoor amplified sound, represents a social contract between establishments and their neighbors.**

Successful interactions are much more about balance and harmony than they are about any specific penalty or punishment. It certainly isn't about one side or another "winning" an argument or dispute.

## Category 2:

# Noise Ordinance Task Force

## Summary

Concurrent with Sound Music Cities' contract, the City of San Antonio established a Noise Ordinance Task Force charged with making recommendations on areas to include, but not limited to:

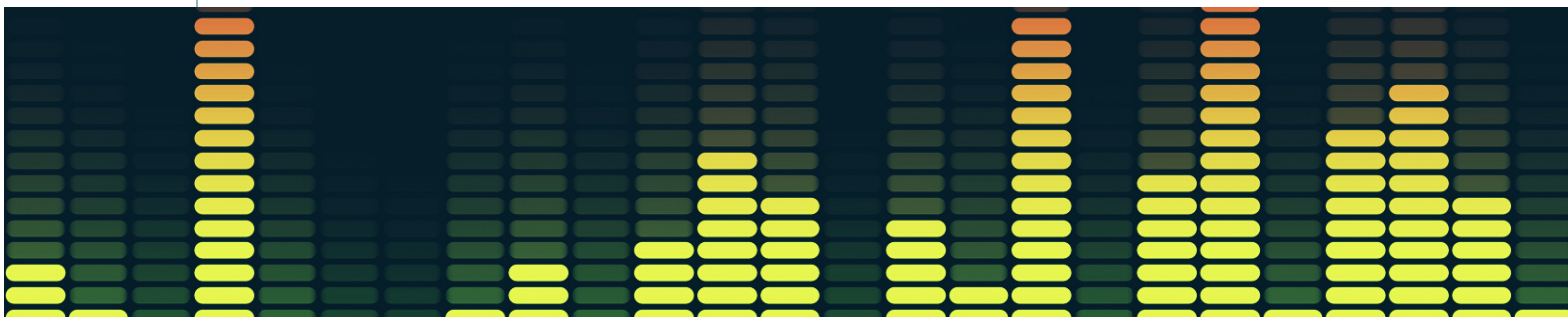
- Noise thresholds (dB levels)
- Hours specifying dB thresholds
- Hours of enforcement
- Enforcement entities and processes
- Low-frequency noise (e.g. bass and sub-bass frequencies)
- Vibration
- Penalties
- Entertainment zones," zoning overlays, and other provisions which may govern noise in and near residential (planning)

Sound Music Cities has attended four task force meetings to date, providing advice and counsel when requested. To date, conversations at the task force have focused on monitoring the Pilot Program's activities and reporting.

## Observations

Members of the task force are represented by neighborhood association representatives and business owners who operate establishments that use music in a collection of entertainment options offered to patrons.

It is no surprise that the residential members of the task force residing near some of the bad actors have strong feelings about the city's enforcement and data collection with respect to noise and sound enforcement. Conversely, business owners are rightly worried about increased regulatory restrictions that will impact their ability to generate a bottom line.

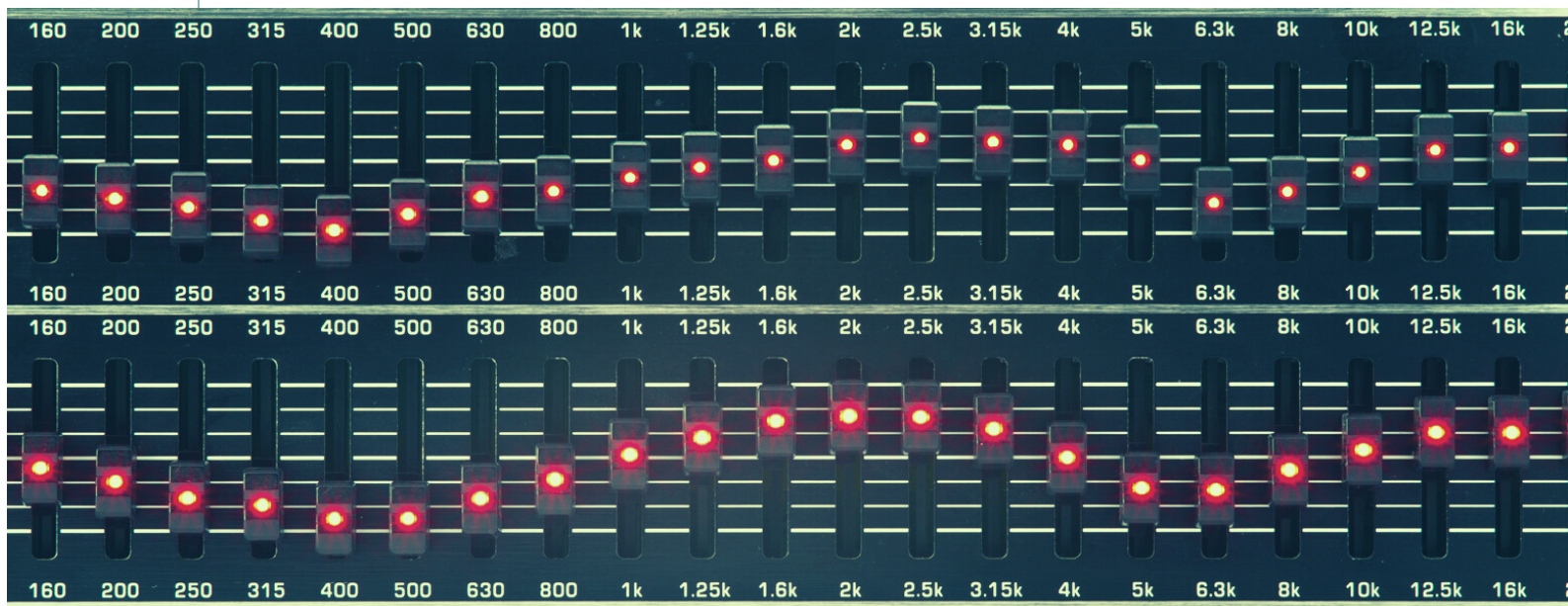


## Category 2: Noise Ordinance Task Force Continued

Because the pilot program was running concurrently with the task force, there was significant time dedicated to the numerical reporting of SAPD non-emergency calls and the efficacy with which city staff either did or did not report/enforce calls. Additionally, there was substantial discussion of personal experiences of bad actors and comparisons of sound levels with other measurements.

Understandably, the majority of the meeting featured frustrated residents from neighborhoods where sound and noise have been out of control and in need of immediate adjustment, enforcement, and correction from the City. Specific areas of town, particularly St. Mary's, Midtown, and specific areas near UTSA, exhibited the most problematic interactions with businesses producing sound and residences.

Resident complaints manifested that sound and noise elements associated with nightlife provide as many pain points for residents as amplified sound from businesses. This includes patrons in neighborhoods, loud-speaking volumes, clinking bottles, exhibitions of speed and sound specific to automobiles, etc. For future task force discussions to be productive, SMC suggests that the task force focus on amplified music from businesses, separating business noise violations from accessory nightlife noise that also needs to be addressed in a nightlife management plan.





### Category 3:

## Interviews with Stakeholders

### Summary

SMC interviewed over 50 stakeholders consisting of city staff, neighborhood association representatives, business owners, and residents. Most interviews were conducted by phone, but some were held either in person or by email.

### Observations

There appear to be two distinct stakeholder groups here that mirror the members of the task force: the owners/operators of establishments who are concerned about the impact of regulation on their business and the residents/neighbors who are impacted by the businesses.

Without exception, residents are fed up with a range of nightlife issues, one of which is sound. The dominant resident mindset is that the current ordinance is not being enforced and their quality of life is substantially impacted by the collection of intrusions and behavior around particular types of businesses operating near their homes. Some are in search of solutions strictly through enforcement and enhancement of the criminal penalties associated with the current sound ordinance.

Businesses are conversely worried about policy changes that will impact how they do business. As they see it, regulation amounts to restricting their income-generating offerings or increasing the time, effort, and consequences for doing business the way they always have. Some of the more extreme positions espouse a “we were here first” or “I can’t help how my patrons act after they leave my business” approach. Others claim ignorance of the current rules or an inability to comply with the noise ordinance as written.

There is no universally accepted agreement between these two stakeholder groups on which challenges are to be solved, nor what “success” looks like at the end of this process. There is an opportunity for the City to provide a “best alternative to no agreement” by forging a path forward to address this growing challenge that isn’t going away without smart policy, enforcement, and community engagement.





# Next Steps

## Policy Framework Creation

Over the next 60 days, SMC will lay out the policy framework for **Community Sound Management**. This process will aim to create a transparent policy that:

- Begins from a clean slate of universal compliance and understanding
- Establishes a permitting system that applies to all amplified sound for outdoor spaces
  - Considerations for entertainment zones or hubs with different entitlements
  - Potential for enhanced entitlements during particular times of year
  - Training and infrastructure requirements for businesses wishing to have outdoor amplified sound
  - Accountable personnel on record for each establishment
  - Sound Impact Evaluation
  - Separates good actors from bad actors
  - Provides penalties different from Class C Misdemeanors
  - Inability to apply for further permits (building, etc.)
  - Capacity adjustments for outdoor spaces without an outdoor amplified sound permit
- Determines reasonable cutoff times for outdoor amplified sound based on proximity to residential homes
- Encourages conversation between disputed parties with professional (city staff) management

The advancement of these policy discussions will happen during small group sessions as well as Task Force meetings, although given our timeline, we can't depend on Task Force meetings alone. We welcome an allowable number of Task Force members to participate in these small group sessions.

The framework of an ordinance is not in its legal construction as much as it is the groundwork that is laid for creating a partnership approach to how sound is evaluated and managed.

## Next Steps Continued

### Initial Conclusions

Our initial conclusions are several:

1. Nightlife concerns cannot be solved by a noise ordinance
  - a. The concise set of policies that would dictate how entertainment businesses operate will not be solved through a rewrite of the noise ordinance, nor should any policy effort attempt such an endeavor
  - b. Elements for a comprehensive regulatory nightlife include everything from trash collection and capacity to sound and land use
2. A cogent noise ordinance should establish sound limits that are achievable so that businesses can come into compliance proactively
3. The overnight allowance of 63 decibels does not work
4. A new ordinance must follow level-set actions by the City
  - a. Businesses should clear tickets, building permits, encroachment issues
  - b. Capacity guidelines for both indoor and outdoor spaces should be solved
  - c. Successful promotion of businesses that enhance tourism through entertainment is a priority for the City
5. Certain times of the year should be considered for enhanced entitlements for entertainment businesses

### Next 60 Days

SMC recommends several immediate adjustments for the next 60 days:

1. Gaining a better understanding of Live Entertainment and Permitting
2. Data analysis of established neighborhoods expressing the biggest challenges overlayed with zoning and permitting information
3. A shift in Task Force activity from regular meetings reviewing pilot program reporting to evening "field trips"
4. A new establishment of success for Task Force with clear direction, and outside facilitation, to gain the best advice from interested parties

Thank You



## About Sound Music Cities

Based in Austin, Texas, Sound Music Cities was born from direct experience in music-related policy, music development program implementations, and leadership of sound management initiatives. Founded in 2017 and led by Don Pitts and Bobby Garza, the team has extensive experience in music strategy that balances the needs of the music and entertainment industry with the needs of the greater community. Sound Music Cities also facilitates the Music Cities Think Tank, an annual gathering of thought leaders in government working with the creative industries in their communities.

[www.soundmusiccities.com](http://www.soundmusiccities.com)